

U. S. Patent Application No.: 09/766,922  
Amendment Dated December 13, 2005  
Reply to Notice of Allowance of November 16, 2005

**Remarks**

Applicants amend the specification in minor respects so that the specification is more consistent with the invention as is recited in the claims. While limitations from a patent specification are not to be imported to the claims, applicants wish to further emphasize that limitations from the patent specification are not to be imported to the claims.

Applicants also amend the claims in minor respects to address minor informalities. None of the amendments presented herein either to the specification or the claims contains new matter. The amendments here are being presented to address minor informalities and, as indicated, to achieve greater consistency between the claims and specification. The claim amendments do not affect the scope of the claims, and as such, should not alter the finding that the claims are patentable. The amendments were not presented earlier since the review yielding the determination that the presented amendments would be desirable was not complete prior to the close of prosecution.

The patent term adjustment listed herein is 577 days. Applicants believe that there will be a reduction of the patent term adjustment for processing of the present amendment after allowance. 37 CFR §1.704 (c)(10). Applicants representative contacted the USPTO Legal Division to determine whether the filing of the Information Disclosure Statement on October 5, 2005 after the Notice of Allowance of July 15, 2005 but before the filing of the Request for Continued Examination on October 11, 2005 should have triggered a reduction of a patent term adjustment under 37 CFR §1.704(c)(10) although no such adjustment has been recorded by the Patent Office. However, according to Kery Fries of the USPTO Legal Division (telephone conference with applicants' representative George S. Blasiak December 7, 2005), the filing of the RCE on October 10, 2005 removed the requirement for adjustment under 37 C.F.R. §1.704(c)(10). According to Fries, the Legal Division has interpreted the "Notice of Allowance" referenced in 37 C.F.R. §1.704 as referring to the "ultimate" Notice of Allowance.

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Regarding the Information Disclosure Statement filed October 5, 2005 applicants have also discussed with the USPTO Legal Division the issue of whether submittal of a Communication from a foreign patent office which is not itself a reference "cited in" a Communication from a foreign patent office requires a statement under 37 CFR §1.97 (e)(1) or 37 CFR §1.97(e)(2). In a telephone conference between James Engel and the USPTO Legal Division on December 7, 2005, and applicants' representative George S. Blasiak, Engel indicated that he agreed with applicants' representative that the filing of a foreign patent office communication does not fall neatly either into the category of requiring a statement under 37 C.F.R. §1.97(e)(1) or into the category of requiring a statement under 37 C.F.R. §1.97(e)(2). Engel further did note that it was his opinion that a communication from a foreign patent office that is not a reference "cited in" a communication would be what he termed a "better fit" under 37 C.F.R. §1.97(e)(1), than under 37 C.F.R. §1.97(e)(2) but did not point to any provision of the MPEP or any other authority (e.g., court or Board decision) definitively resolving the issue of whether a communication from a foreign patent office that is not a reference "cited in" a communication requires a statement under 37 C.F.R. §1.97(e)(1) or under 37 C.F.R. §1.97(e)(2).

Accordingly, in view of the above amendments and remarks, applicants believe all of the claims of the present application to be in condition for allowance and respectfully request reconsideration and passage to allowance of the application.

If the Examiner believes that contact with applicants' attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call applicants' representative at the phone number listed below.

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The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to deposit Account No. 50-0289.

Respectfully submitted,

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Date: December 13, 2005

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